

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

In re:

William A. Ambros,

Case No. 8:12-bk-00051-MGW  
Chapter 7

Debtor.

\_\_\_\_\_ /

GRACE COMMUNITY CHURCH OF  
BRANDON, INC.,

Plaintiff,

vs.

Adv.Pro.No. 8:12-ap-00685-MGW

WILLIAM A. AMBROS,

Defendant.

\_\_\_\_\_ /

**MEMORANDUM OPINION**

This matter came before the Court on September 30, 2013 for a final hearing on an Adversary Complaint filed by creditor Grace Community Church of Brandon, Inc. ("Grace") under Section 727(a)(4) of the Bankruptcy Code. For the reasons stated in open court, which shall constitute the Court's Memorandum Opinion, the Court finds in favor of Grace on its Complaint seeking to deny the Debtor's discharge in this bankruptcy case. The Court's findings appear in the final hearing transcript attached hereto. The Court shall enter a final judgment in

favor of Grace consistent with this Memorandum Opinion.

DONE AND ORDERED at Tampa, Florida on November 1, 2013.



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**MICHAEL G. WILLIAMSON**  
**United States Bankruptcy Judge**

Attorney Amy B. Baruch, Esquire, is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of the order.

Copies furnished to:

**Amy B. Baruch, Esq.**, 201 N. Franklin St., Ste. 3200, Tampa, FL 33602;  
**Trustee, Richard M. Dauval**, P.O. Box 13607, St. Petersburg, FL 33733-3607;  
**Debtor, William A. Ambros**, P.O. Box 188, Sydney, FL, 33587.

IN THE UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

IN RE:	:	
	:	
WILLIAM A. AMBROS	:	Case No. 8:12-bk-00051-MGW
	:	
Debtor	:	Chapter 7
	:	
- - - - -	x	
GRACE COMMUNITY CHURCH	:	Adv. No. 8:12-bk-00685-MGW
OF BRANDON, INC.	:	
	:	
Plaintiff	:	
	:	
v.	:	
WILLIAM A. AMBROS	:	
	:	
Defendant	:	
	:	
- - - - -	x	

U.S. Courthouse  
801 North Florida Avenue  
Tampa, Florida 33602  
Held September 30, 2013

TRANSCRIPT OF HEARING  
*[Excerpt - Court's Ruling on Trial]*

1-Trial on Amended Complaint; 2-Motion in Limine, filed  
by Christopher A. Tancredo on behalf of Defendant  
William A. Ambros (Doc. #33)

BEFORE THE HONORABLE MICHAEL G. WILLIAMSON  
UNITED STATES BANKRUPTCY JUDGE

PROCEEDINGS DIGITALLY RECORDED BY COURT PERSONNEL  
TRANSCRIPT PRODUCED BY COURT-APPROVED TRANSCRIPTION SERVICE

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JOHNSON TRANSCRIPTION SERVICE  
7702 Lake Cypress Drive  
Odessa, Florida 33556  
(813) 920-1466

*[Excerpt - Court's Ruling on Trial]*

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APPEARANCES:

For Plaintiff, Grace  
Community Church  
of Brandon, Inc.

AMY C. BARUCH, Esquire  
WILLIAM J. SCHIFINO, Esquire  
Burr & Forman LLP  
201 N. Franklin Street  
Suite 3200  
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813-221-2626  
abaruch@burr.com  
wjschifino@burr.com

[Excerpt - Court's Ruling on Trial]

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1 Tampa, Florida, September 30, 2013

2 (Entire Proceedings commenced at 9:32 a.m.)

3 \* \* \* \* \*

4 (Excerpt commenced at 10:25 a.m.)

5 THE COURT: Okay, thank you. Okay, very well, the  
6 Court has before it a trial on a complaint that was filed in  
7 this case under Section 727(a)(4), which deals with false  
8 oaths both on his schedules and at testimony at the 341  
9 meeting and the 2004 exam.

10 727(a)(4) does not require that the statements be  
11 made in any particular context, only that they be made in  
12 connection with the case, and obviously statements in  
13 schedules and statements at 2004 exams and 341 meetings are  
14 all in connection with the case.

15 By way of factual background, Grace Community Church  
16 is a small church located in Brandon, Florida. It operates a  
17 school on the property. One day at an athletic event, there  
18 was an incident which appears to have been instigated by the  
19 Debtor and his mother in trying to repossess a car of his ex-  
20 wife during a kids softball game.

21 There was an altercation. Charges were -- the  
22 Debtor was arrested, charges were filed, and for some reason  
23 they weren't really fully prosecuted.

24 Be that as it may, the Debtor, after that incident,  
25 alleged that the prosecution and the accusations damaged

*[Excerpt - Court's Ruling on Trial]*

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1 him and so he filed a lawsuit which was determined to be  
2 frivolous. And under state law, under Section 57.05 -- I  
3 think that's still the law -- the prevailing party's entitled  
4 to attorneys' fees if there's no justiciable cause of action,  
5 which is apparently what happened. Judge Silver thereupon  
6 entered a substantial money judgment in favor of the church  
7 for its attorneys' fees.

8           The Debtor was not forthcoming during the process  
9 of discovery in aid of execution with the result that Judge  
10 Silver had to take the extraordinary contempt to -- of  
11 entering an order to show cause requiring the Debtor to  
12 appear in his courtroom to show cause why he should not be  
13 held in contempt for failure to comply with discovery orders.

14           The day before that hearing, the Debtor filed a  
15 Chapter 7 in this case. The church contends that his  
16 schedules materially omit various sources of income as well  
17 as testimony that he made at the 341 meeting in 2004.

18           The case law on 727(a)(4) is consistent with what  
19 the Plaintiff has argued here. The primary purpose of a  
20 bankruptcy is to provide an honest debtor with a fresh start  
21 to relieve the burden of indebtedness.

22           In order for a false oath to preclude discharge, it  
23 must be fraudulent and material. A false oath is material  
24 where it bears a reasonable relationship to the Debtor's  
25 business transactions or estates or concerns the discovery of

*[Excerpt - Court's Ruling on Trial]*

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1 assets, business dealings, or the existence and disposition of  
2 property.

3 The objecting party must establish the necessary  
4 intent to show the Debtor made the false oaths knowingly and  
5 fraudulently. Inadvertent inaccuracies don't rise to that  
6 level.

7 In this case, I suppose what's most troubling is  
8 the existence of a storage unit and the history of PayPal  
9 purchases of sports memorabilia. There was no disclosure of  
10 the storage unit in his 2004. In fact, it was an outright  
11 denial that it existed, which was contrary to the documented  
12 evidence as received here in court today.

13 There's also no disclosure of the substantial sports  
14 memorabilia, nor of any disposition of that memorabilia, which  
15 leads the Court to conclude that the storage unit is being  
16 used to store substantial assets, all of which he denied  
17 owning, instead taking the contrary position that everything  
18 he owned was sitting in his car. The Court considers that to  
19 be material.

20 In addition, based on a review of bank records going  
21 back for several years, it appears that the Debtor is able to  
22 sustain a lifestyle which requires more cash than the Debtor  
23 has coming in from his social security benefits. Therefore,  
24 there must be other sources of income, whether they be gifts  
25 or loans from other sources or sales of personal property to

*[Excerpt - Court's Ruling on Trial]*

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1 sustain his lifetime.

2           There's no disclosure of that other income. Rather,  
3 the Debtor's sworn testimony is that the only income he's  
4 had for a number of years, going back to 2005, is his social  
5 security income. That is also a material misstatement of  
6 fact.

7           All of that taken together supports the creditor's  
8 case with objective evidence, evidence derived from third  
9 party sources that all have been authenticated and properly  
10 admitted into evidence under 803(6), which is the business  
11 records exception to the hearsay rule.

12           Based on that, the Court will find that the Debtor's  
13 discharge should be denied under 727(a)(4) of the bankruptcy  
14 code. I'll enter a judgment for the reasons stated orally in  
15 open court.

16           And this trial wasn't very long, so I don't think  
17 it'll be very expensive. If you could get a transcript of my  
18 ruling from the bench and attach the portion of it. You just  
19 need to order the last part of the trial.

20           MS. BARUCH: Yes, Your Honor.

21           THE COURT: And also, if you could do an order on  
22 the motion to continue. Now, on that one, I want you to go  
23 back and listen to my ruling on that motion where I made  
24 specific findings and bases for that because based on my  
25 experience, there's going to be a motion for rehearing and a



[Excerpt - Court's Ruling on Trial]

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1 sympathetic plea, and I want it set forth, the bases for that.

2           It's more than just the fact that it was a last  
3 minute request; it was that the motion itself just didn't  
4 state facts that would support the need to be in a surgical  
5 proceeding today, only later this week. And secondly, our  
6 rules require those be filed two to three weeks ahead of time,  
7 and that material prejudice occurred as a result of failure to  
8 comply with that.

9           But look at my ruling. My ruling will be posted on  
10 our court website. I asked Marti to --

11           COURTROOM CLERK: It usually takes more than one  
12 day, though, Judge.

13           THE COURT: It takes a couple days?

14           COURTROOM CLERK: Yeah.

15           THE COURT: Okay.

16           COURTROOM CLERK: For some reason, the last one I  
17 did is still not on.

18           THE COURT: Yeah, we post audio rulings on the  
19 website if it would be of assistance to counsel. And it's  
20 just -- you'll have to figure out how to open it up, but you  
21 can do it because I know I've done it.

22           MS. BARUCH: Okay. I'm sure we can figure it out.

23           THE COURT: So that will be my ruling.

24           COURTROOM CLERK: Judge, do you want to rule on --  
25 deny the motion in limine since it's moot or -- I mean, it was

[Excerpt - Court's Ruling on Trial]

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1 filed by Mr. Tancredo but we still have it on the calendar.

2 THE COURT: Okay, yes. And get me a simple order  
3 denying the motion in limine.

4 And so attach the transcript to my ruling on the  
5 merits. In fact, do a memorandum opinion which recites that  
6 for the reasons -- the Court will enter judgment in favor of  
7 the Plaintiff for the reasons set forth in the attached  
8 transcript of the ruling from the bench. And then that  
9 will -- and then do a sep -- and in that, say a separate final  
10 judgment will be entered denying the Debtor his discharge.

11 And then do a separate final judgment, which will be  
12 a simple -- it will be for the reasons set forth in Docket  
13 Number whatever, which is the memorandum opinion and the  
14 attached transcript, the Court finds that the Debtor's  
15 discharge should be denied pursuant to 11 U.S.C. Section  
16 727(a)(4). The creditor may proceed in all respects, and the  
17 automatic stay and discharge injunction no longer apply, it  
18 may proceed in State Court on appropriate proceedings for  
19 collection of its judgment. Something like that.

20 So you can -- and then you'll have a nice one-page  
21 judgment that you can then do a notice of filing in the State  
22 Court and then go back there and continue and just get Judge  
23 Silver to crank up that case again and you can continue on.

24 Okay, is there anything else we can cover today?

25 (No response.)

*[Excerpt - Court's Ruling on Trial]*

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1 THE COURT: Okay, thank you all.

2 MS. BARUCH: Thank you, Judge.

3 THE COURT: Court'll be in recess..

4 COURTROOM CLERK: All rise.

5 MR. SCHIFINO: Thank you, Your Honor.

6 (Proceedings concluded at 10:36 a.m.)

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[Excerpt - Court's Ruling on Trial]

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CERTIFICATE

I certify that the foregoing is a correct transcript prepared on an expedited basis to the best of my ability from the logs and digitally recorded audio proceedings of the above-entitled matter.

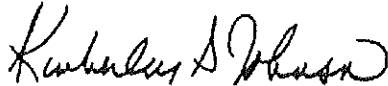


Cheryl Culver (CER, CCR)  
Transcriber

October 4, 2013

Date

I certify that the foregoing is a federally certified transcript authenticated by:



Kimberley S. Johnson (CVR-M)  
Certified Verbatim Reporter Master

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